

2005 DRAFTING REQUEST

Bill

Received: **07/20/2005**

Received By: **agary**

Wanted: **As time permits**

Identical to LRB:

For: **Donald Friske (608) 266-7694**

By/Representing: **Tim Gary (aide)**

This file may be shown to any legislator: **NO**

Drafter: **agary**

May Contact:

Addl. Drafters:

Subject: **Transportation - miscellaneous
Transportation - motor vehicles**

Extra Copies: **PJH**

Submit via email: **YES**

Requester's email: **Rep.Friske@legis.state.wi.us**

Carbon copy (CC:) to:

Pre Topic:

No specific pre topic given

Topic:

changes to raw forest products fruits and vegetables overweight vehicle permit; creating surcharge;
requiring raw forest products transporters to keep records

Instructions:

See Attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	agary 07/25/2005	wjackson 07/29/2005		_____			S&L Vehicle
/P1			rschluet 07/29/2005	_____	lemery 07/29/2005		S&L Vehicle
/1	agary 09/06/2005	wjackson 09/06/2005	rschluet 09/06/2005	_____	lemery 09/06/2005	lemery 09/06/2005	

FE Sent For:

<END>

At
intro.

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/P1		1 wj 9/6	rschluet 07/29/2005	_____ _____	lemery 07/29/2005		

FE Sent For:

9/6
<END>

PA's: send
"1" out
jacketed
TODAY. ARB
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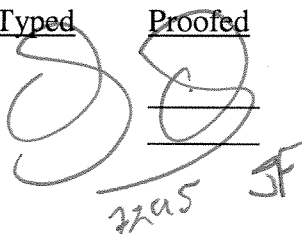
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/?	agary	/pl mj-7/29					
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FE Sent For:

<END>

7/20

He w/ Tim

- Frishe etc.

- LRB-3070 : wants new bill for Frishe based on that - has bill
 - verified pp. & ll. that he has 1/2 bill
 - change p. 6 - line 6 - requirement to keep paper slips limited to transporters of raw forest products
 - will want change to raw forest product def. to include transitional material but not wetlap
 - is looking at penalty

the w/ Rep. Friske

7/20

raw forest products def. :

LRB-1963 :

def. no overlap

"intermediary lumber" -
recognized industry term

p. 6, sect. - 2 : ^{for broad} only trucks carrying

raw forest products

- maintain scale slips for 30 days

- upon request from prosecuting authority,

must produce scale slip for

day of citation & 30 days

penalty

- penalty for failure : \$1,000

- not going anything to write citats
- w/ for sentry

• remove citat from bill

18:00 mty in Frishe ofc. tomorrow
w/ Tim

- reconfigure pencils:

C/1 : ~~that~~ except surcharge

• surcharge on 2 year cycle : 24 ms.
from 1st cited

• 1st overweight : surcharge 250

2nd offere - 500

2nd over : 750

+ C/1

no overweight

w/ in 24 ms.

surcharge : funds to
trans fund

back

c/l : permit 90,000

frozen roads : 98,000

c/l : sunset in 5 years
change to current permit

• may want to allow local ordinance —
if so need to treat 348.22

Aug. 11 → needed by then
• want draft soon

• configuration : 6 axles : 3rd axle -
can be on power unit : dual wheel &
axle must lift or steer

Mtg w/ Tim - Rep. Froehle etc.

7/21

A & D: existing
A → B D → C

- 2 yrs. from last offense →
only restart if "clean" for
2 yrs.
- transporting raw food products overweight →
 - either w/o permit or over permit weight
- put local ordinance in
- produce weight tickets to prosecuting authority
- make sure pup trailer stays legal
- Jan. 1, 2011 →

From Tim - Frische etc.
7/21

PROPOSAL FOR A RAW FOREST PRODUCTS HAULING PERMIT

WORKING GROUP

The Truck Overweight Working Group was formed several years ago to address the issue of damage done to roads as the result of overloaded log trucks. This Working Group consists of the Wisconsin County Highway Association (WCHA) and representatives of the logging industry, including the Wisconsin Timber Producers Association (WTPA) and the Wisconsin Professional Loggers Association (WPLA). The Wisconsin County Highway Association's concern centered on highway damage and enforcement of existing weight laws. The Timber producers concerns centered on economic considerations including potential loss of access to timber brought about by road postings and competitive forces within the industry that were pressuring haulers to violate load limits. Despite what could be interpreted as separate interests, the WCHA, WTPA and WPLA have found common ground and have been able to develop a consensus in a proposal, that if implemented, will answer the concerns of all parties. We believe their proposal could and should act as a model for the State of Wisconsin.

HIGHWAY INFRASTRUCTURE

Truck loadings are the single greatest factor in determining the longevity of any given roadway. From a structural standpoint, it is the number of heavy axle loads that ultimately determine the life of a street, road or highway. As truck axle loads increase, damage or wear on a highway increases exponentially. Even minor overloads can significantly decrease the longevity of a highway and ultimately cost Wisconsin taxpayers.

HIGHWAY ENGINEERING SYNOPSIS

- From a design standpoint, trucks are the single greatest factor in determining pavement structure
- The number of truck axle loads a road is expected to receive over the proposed life of the highway determines the investment required in the pavement structure, the higher the volume and the heavier the loads, the higher the cost of the highway
- A standard axle load is 18,000 lbs. for most Wisconsin design. This is called an Equivalent Single Axle Load (ESAL)
- Overweight axles greatly accelerate roadway deterioration, reducing pavement life and causing distress such as rutting.
- Overweight damage is not linear. Overweights cause exponential damage.

Example of exponential increase in damage vs. weight

Single Axle Load Factors

<u>Axle Load</u>	<u>Weight Increase over base</u>	<u>ESAL Factor</u>	<u>Damage Increase over Base</u>
18,000 lbs.	-	1.00	-
20,000 lbs.	11%	1.49	49%

Tandem Axle Load Factor

33,000 lbs.	-	1.00	-
36,000 lbs.	9%	1.40	40%
38,000 lbs.	15%	1.70	70%
40,000 lbs.	21%	2.09	109%

PROBLEMS IDENTIFIED

It is clear that overweight trucks hauling raw forest products is a serious problem. The current system has broken down and is not serving either the taxpayers or the industry well. Reform is needed and warranted. Briefly the problems identified were are follows:

- Systemic problems with overloads leading to accelerated highway damage
- Ineffective or non-existent enforcement of current weight regulations in the field
- Ineffective or insufficient penalties within the court system to provide real disincentives
- Competitive forces within the industry that reward violators financially and hence punish those that follow the rules
- Competition from outside the state that negatively effects Wisconsin's timber industry
- Complicated existing rules that can lead to unintended violations and other problems due to differences between state and local jurisdiction

SOLUTION CONCEPTS

The WCHA, WTPA and WPLA were able to come to a consensus on what concepts had to be incorporated into any reform package for raw forest product hauling. Briefly the proposal would have to include the following features:

- A permit system, that would include revocation or suspension for weight violations
- Disincentives that would lead to "self policing" within the industry
- Creation of a level playing field within the industry by removing advantages violators presently reap
- Simplification of weight rules and more cooperation between state and local highway authorities
- Increased load carrying capacity for Wisconsin haulers that would insure the competitiveness of Wisconsin's industry
- Increased loads would have to be accompanied by "reconfiguration" of trucks, so that the load can be hauled with no increase in damage to the highway system

The WCHA, WTPA and WPLA combined these concepts into a proposal that they believe will serve all parties. The crux of the proposal is a permit system for reconfigured trucks. They believe this is a model that could be employed in other sectors as well.

PROPOSAL SPECIFICS

An Equipment Configuration Sub-Committee developed specific proposals for new truck configurations that would incorporate the concepts defined by the Working Group. Briefly the proposal is as follows:

Log Truck Configurations shown on the attached (Addendum 1) would be allowed.

- a) Configurations A and D would be sunseted in 5 years. These are the most prevalent truck configurations used currently.
- b) Additional configurations would be examined and added as needed, after careful consideration of the impact to the road system. Only those configurations that are comparable to B and C Loadings will be acceptable. A base line for consideration is that no additional harm to the road system will result.
- c) These configurations are based on a maximum of 18 kip axle loads, with a not to exceed gross load as shown. This loading is consistent with present Wisconsin pavement designs, which are based on 18 kip axle loads.

Enforcement will be the key to the success of this initiative. While all parties recognize that there will be no additional enforcement personnel available (to the contrary, weight enforcement appears to be losing personnel) it is extremely important that the penalty for hauling overweight loads be so sure and so harsh as to encourage self policing. Therefore, the following structure is proposed for policing overweight loads:

d) All trucks will haul the proposed loads through the issuing of a permit.

*2nd offense
lose the permit
Can we make it non-permit
for fines.*

1) For the first time a truck is found to have a gross overweight, the permit is suspended for a period of six months.* This would mean that no matter what the permit was issued for, the truck would be allowed to haul only a standard statutory load, for a period of 6 months. This suspension could not be suspended or reduced by the Court system.

2) For the second offence, the permit would be suspended for a period of one year.

3) Subsequent offences would result in the suspension of the permit for one year.

4) If the truck is found to be over its standard statutory load during a suspended license period, an additional one year would be added to the length of the suspension period.

5) Axle overloads will be handled under current regulations

6) The operator shall not be given any additional permits for the suspension period

* The permit suspension follows the truck. Another permit cannot be given to the truck for the suspension period. The truck would have to display a "permit suspended" placard for the period, while hauling raw forest products.

e) All overweight fines would be calculated from the unpermitted load capacity. This means that a truck that is permitted to carry 98 kips found to be over the 98 kip load would have the fine calculated on an 80 kip legally permitted load (18,000 lbs. plus overweight fine).

BENEFITS

FOR OUR TRANSPORTATION INFRASTRUCTURE

1. Reduced damage and longer longevity for the highway system. The truck configurations proposed carry additional weight, however, their net impact on the highway pavement structure is equivalent to statutory loads. While existing "permitted" loads and overloads can inflict as much as 2 to 3 times as much damage as a statutory load.
2. Disincentives will be so great, that most operators will self police. Enforcement at present is totally inadequate and does not appear to be able to be improved anytime soon. Current levels of enforcement with the added penalties of permit loss and fine enhancement should, however, be sufficient to provide a real deterrent.
3. This will eliminate the need for and the confusion surrounding the "frozen road law" declaration.

4. This develops a model from which other overload permits can be addressed. The clear linkage between truck configuration and pavement impacts as a determiner of appropriate loads, should be used by the Legislature as the mechanism for developing future rules and law.
5. The practice of a "negotiating" a fine down will be reduced. A "mandatory" permit loss for an infraction means that a violator can no longer work the Court System to reduce the impact of an enforcement action. The disincentives of a lost permit are clear and sure.




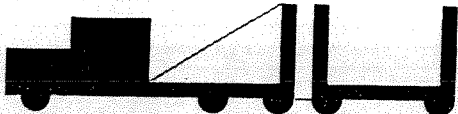
FOR THE LOGGING INDUSTRY

1. Keeps the Wisconsin Logging Industry competitive with other states that currently allow larger loads.
2. Creates a level playing field for all raw forest product haulers. The current environment financially rewards violators. Those who try to haul legally are disadvantaged by those who haul overloaded. Log haulers, who haul legally, are put in a position of having to choose between losing their business or hauling overloads themselves.
3. Rather than receiving financial rewards for violating weight laws, violators could face financial ruin. Loss of a permit would make their business uncompetitive against those who obey the law and retain their permit.
4. Simplifies year round hauling by eliminating the frozen road law.

OTHER APPLICATIONS



It is anticipated that this could be used as a model for other overweight hauling. It sets the precedent of additional weight must be accompanied by additional axles. While logging is a major concern for northern counties, other commodities such as garbage, scrap, recyclables, milk, etc., are a concern statewide. This model can be and should be applied to these commodities as well. It is clear that the needs of Wisconsin's economy and industry can be met, while respecting and protecting the public's investment in our state's infrastructure.

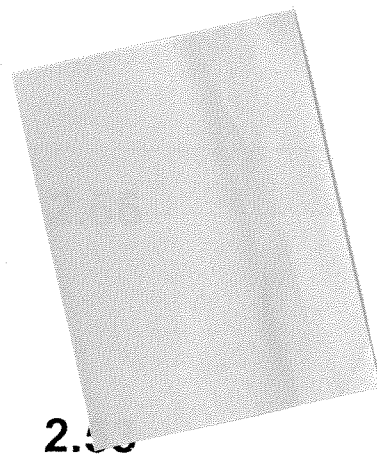
RAW FOREST TRUCK CONFIGURATIONS

Vehicles in Combination	Max. Gross Weight	Truck ESAL Factor
A  ↓	90 k	3.76
B 	98 k	2.85
C 	98 k	3.11
D  ↑	90 k	4.38

For a standard five axle semi tractor-trailer configuration with an 80,000 lb. gross weight, the ESAL Factor is 2.4

Single Vehicles

E		72 k	2.50
F		82 k	2.50



Gary, Aaron

From: Frazier, Carson
Sent: Wednesday, July 13, 2005 5:48 AM
To: Gary, Aaron
Subject: FW: Draft review: LRB 05-3070/2 Topic: Oversize and overweight permits for Michigan configured vehicle combinations, enforcement of overweight violations by weight and shipping records, creating surcharge

Thanks a lot, Aaron! I forwarded this to Reps Ainsworth, Sherman, and Friske, with a note that we haven't yet reviewed/responded to your note, and that we'll get to them as soon as we do. Thanks again!

*Carson P. Frazier
Program Officer, Legislative Liaison
Division of Motor Vehicles
Phone: 608-266-7857*

-----Original Message-----

From: Basford, Sarah [mailto:Sarah.Basford@legis.state.wi.us]
Sent: Tuesday, July 12, 2005 10:56 AM
To: Frazier, Carson
Subject: Draft review: LRB 05-3070/2 Topic: Oversize and overweight permits for Michigan configured vehicle combinations, enforcement of overweight violations by weight and shipping records, creating surcharge

State of Wisconsin
Legislative Reference Bureau

**One East Main Street
Suite 200
P.O. Box 2037
Madison, WI 53701-2037**

The attached draft was prepared at your request. Please review it carefully to ensure that it satisfies your intent. If you have any questions concerning the draft or would like to have it redrafted, please contact Aaron R. Gary, Attorney, at (608) 261-6926, at aaron.gary@legis.state.wi.us, or at One East Main Street, Suite 200.

If you would like to jacket the draft for introduction, please click on the appropriate button (to the left). If you have any questions about jacketing, please call our program assistants at (608) 266-3561. Please allow one day for jacketing.

If the last paragraph of the analysis states that a fiscal estimate will be prepared, the LRB will request that it be prepared after the draft is introduced. You may obtain a fiscal estimate on the draft before it is introduced by contacting our program assistants at LRB.Legal@legis.state.wi.us or at (608) 266-3561. If you have previously requested a fiscal estimate on an earlier version of this draft and would like to obtain a fiscal estimate on this version before it is introduced, you will need to request a revised fiscal estimate from our program assistants.

Please call our program assistants at (608) 266-3561 if you have any questions regarding this email.

07/25/2005

Gary, Aaron

From: Frazier, Carson
Sent: Thursday, July 21, 2005 7:24 AM
To: Kelly, Judy; Gary, Tim; Western, Jennifer
Cc: Boardman, Kristina; Gary, Aaron; Klein, Christopher - DOT; Klein, Rose; Frazier, Carson; Kernats, Mike; Teasdale, Charles; Vieth, David; Nichols, Kathleen; Niva, Gregory; Trainer, Patricia; Hughes, Dennis - DSP
Subject: LRB 05-3070/3 Topic: Oversize and overweight permits for vehicle combinations transporting raw forest products, enforcement of overweight violations by weight and shipping records, creating surcharge

Attached is LRB-3070/3, which DOT had drafted concerning raw forest product overweight transport and weight enforcement by weight records.

This version is technically correct, and DOT offers it to Rep Friske and Rep Sherman, for use in developing an introducible bill draft.

The LRB analysis gives a thorough explanation of what this LRB draft does. In brief, the draft:

1. Creates an overweight permit for raw forest product transport, up to 98,000 lbs gross weight, on at least 6 axles, with axle weight over 18,000 lbs. It is our understanding that this is the preference of industry and local highway officials.
2. Requires any motor carrier, not just those transporting raw forest products, to retain any shipping documents or weight records for 30 days, and authorized the state patrol and DOT to inspect and copy these documents without a search warrant. This does not require all vehicles to be weighed at a scale; it merely requires that, if they are weighed, the motor carrier must retain the weight documents. It seems there is broad agreement among all parties that some type of weight enforcement by using weight documents is needed, and this draft is narrowly written to place requirements on motor carriers only.
3. Increases overweight penalties, on which it appears there is also consensus. This draft provides:
 - o for second or subsequent conviction within 12 months of violating special weight allowances, the amount of overweight used to determine the penalty is calculated from the normal legal weight, not from the weight allowed under the special weight allowance if the special weight allowance is greater than normal legal weight.
 - o in addition to any other penalty, DOT must suspend any overweight permit for 6 months after the date of the second or subsequent conviction.
 - o if a person whose permit has been suspended under this provision violates any overweight violation while the permit is in suspension, the person also is charged a surcharge.

DOT has worked with the drafting attorney to make sure the language is technically correct and precise. We expect that there will be more discussions on the policies embodied in the bill draft, and we ask that we be fully involved in developing policy that sufficiently protects the infrastructure and is also precise and enforceable.

07/21/2005

Once again, let me apologize for forgetting protocol, as I requested this separate draft. I was simply trying to make it efficient to work with the drafting attorney. DOT is most interested in working cooperatively with both your offices, to get the best possible introducible bill.

We look forward to hearing from you. Thank you very much.

*Carson P. Frazier
Program Officer, Legislative Liaison
Division of Motor Vehicles
Phone: 608-266-7857*

3070/3 File Attached to e-mail

Wanted
by 7/29
RMNRin 7/25
2005 BILL

A-Note

Regen

1 AN ACT *to renumber and amend* 348.25 (7); *to amend* 194.17, 348.17 (3),
2 348.17 (4) (a), 348.175, 348.21 (3) (b) 2., 348.25 (9), 348.27 (9m) (a) 1., 348.27
3 (9m) (b) and 349.16 (3); and *to create* 25.40 (1) (in), 194.095, 348.15 (9), 348.21
4 (3m), 348.215, 348.25 (6m), 348.25 (7) (b), 348.27 (9m) (a) 4., 814.75 (17m),
5 814.79 (6m) and 814.81 (7m) of the statutes; **relating to:** ~~enforcing motor~~
6 ~~carrier overweight violations determined based upon shipping documents,~~
7 requiring ^{certain} motor carriers to maintain ^{weight records} ~~shipping documents,~~ annual or
8 consecutive month permits for certain overweight vehicles or vehicle
9 combinations, creating an overweight vehicle surcharge, and providing a
10 penalty.

Analysis by the Legislative Reference Bureau

Under current law, with limited exceptions, a person who transports passengers or property for hire by motor vehicle on a highway is a common motor carrier; a person who transports only property for hire by motor vehicle on a highway is a contract motor carrier; and any other person who transports property by motor vehicle on a highway is a private motor carrier. With limited exceptions, a common

BILL

motor carrier or contract motor carrier must operate under a certificate or license (certificate of authority) issued by the Department of Transportation (DOT) or issued under federal law authorizing operation of a vehicle as a common motor carrier or contract motor carrier. Various state laws, including laws relating to vehicle marking and vehicle inspection, govern private motor carriers as well as common motor carriers and contract motor carriers. Any state traffic patrol officer, state motor vehicle inspector, or other authorized agent of DOT may at any time enter upon any premises or vehicle of a common motor carrier, contract motor carrier, or private motor carrier for purposes of enforcing motor carrier laws, including for the purpose of inspecting insurance records.

→ Under current law, with limited exceptions, no person may operate upon a highway any vehicle or combination of vehicles that exceeds certain statutory weight limits unless the person obtains a permit issued by DOT or a local authority. Any state traffic patrol officer, state motor vehicle inspector, or other traffic officer may issue a citation for an overweight violation to a person or motor carrier for the operation of a vehicle in excess of applicable weight limitations.

This bill requires all common motor carriers of property, contract motor carriers, and private motor carriers to retain true, accurate, and legible copies of all shipping documents, including weight certifications and bills of lading, associated with transported property for at least 30 days, and allows state traffic patrol officers, state motor vehicle inspectors, and other authorized agents of DOT to inspect and copy these shipping documents within 30 days of the motor carrier's transportation of the property. From the shipping documents and any other available information, the officer, inspector, or agent may calculate the actual gross weight of a vehicle or vehicle combination operated under authority of the motor carrier and, if this weight exceeds the gross weight limitations established by law, the officer, inspector, or agent may, no later than 48 hours after the inspection, issue the motor carrier a citation for an overweight violation (generally determined by the amount by which the vehicle or vehicle combination exceeds the gross weight limitations established by law, taking into account any overweight permit under which the vehicle or vehicle combination may have been operating at the time of the violation). "Gross weight" means the weight of the vehicle or vehicle combination equipped for service plus the weight that the vehicle or vehicle combination is carrying as a load. The calculations of the officer, inspector, or agent and the shipping documents are admissible as relevant evidence of the gross weight of the vehicle or vehicle combination. Any motor carrier that fails to maintain or produce for inspection shipping documents must forfeit not less than \$50 nor more than \$100, and a motor carrier that falsifies a shipping document or knowingly accepts a falsified shipping document must forfeit not less than \$500 nor more than \$5,000, the same penalty that applies to a motor carrier operating without authority or without required insurance.

The bill also allows DOT to require any person issued an overweight permit to provide to DOT all shipping documents associated with the transportation of property under the permit.

→ Under current law, with limitations, DOT may issue an annual or consecutive month permit (a raw forest products, fruits, and vegetables permit) for the

The Department of Transportation

BILL*new version of the permit*

transportation of raw forest products, fruits or vegetables from field to storage or processing facilities, or bulk potatoes from storage facilities to rail loading or food processing facilities in vehicles or vehicle combinations that exceed generally applicable statutory gross weight limitations by not more than 10,000 pounds. The permit may not authorize the operation of any vehicle or vehicle combination at a maximum gross weight in excess of 90,000 pounds. A permit for the transportation of raw forest products or of fruits or vegetables is not valid on highways designated as part of the national system of interstate and defense highways except on a specified portion of I 39.

Insert ANAL-A → This bill modifies the raw forest products, fruits, and vegetables permit with respect to the transportation of raw forest products. Under the ~~bill~~, DOT may issue a raw forest products, fruits, and vegetables permit for the transportation of raw forest products in vehicle combinations that exceed generally applicable statutory gross weight limitations by not more than 18,000 pounds if all of the following apply:

1. The vehicle combination has six or more axles, at least three of which are on a trailer or semitrailer.
2. The gross weight imposed on the highway by the wheels of any one axle of the vehicle combination does not exceed 18,000 pounds.
3. There is a distance of at least 13 feet between the foremost steering axle and the foremost axle of the drive axle on the power unit, at least 25 feet between the rearmost axle of the drive axle on the power unit and the foremost axle on the trailer or semitrailer, and at least 50 inches between any two consecutive axles of each tandem axle on the trailer or semitrailer.

The permit does not authorize the operation of any vehicle combination at a maximum gross weight in excess of 98,000 pounds. The permit is also not valid on interstate highways, on highways or bridges with posted weight limitations less than the vehicle combination's gross weight, and on state trunk highways that DOT has designated by rule as routes on which the permit is not valid.

Insert Anal-C → This modification of the raw forest products, fruits, and vegetables permit applies to permits issued by DOT on or after the bill's effective date; unexpired permits issued prior to the bill's effective date remain valid, under the terms of each permit, until they expire.

Under current law, DOT and local highway authorities may impose special weight limitations on highways under their jurisdiction that, because of deterioration or climatic conditions, would likely be seriously damaged or destroyed if such limitations were not imposed and on bridges that cannot safely sustain the generally applicable maximum weights allowed by law. These weight limitations may be imposed by posting signs on or along the highway, or before each end of the bridge, giving reasonable notice of the special weight limitations. No person, whether or not operating under an overweight permit, may operate a vehicle in violation of these special posted weight limitations, except when operating under an overweight permit that expressly authorizes these special posted weight limitations to be exceeded. However, DOT and local highway authorities may exempt from these special posted weight limitations on highways, or set different weight limitations, for vehicles carrying certain commodities or performing certain services if doing so is

BILL

reasonable and necessary for the public interest and, with certain restrictions, must exempt from these special posted weight limitations on highways vehicles used to transport material pumped from a septic or holding tank.

Current law also provides various exceptions that allow a person to operate upon a highway a vehicle or vehicle combination that exceeds generally applicable statutory weight limitations without an overweight permit. Under one exception, if the Department of Agriculture, Trade and Consumer Protection determines that an agricultural emergency exists with respect to the harvest of particular crops, DOT may authorize a vehicle or vehicle combination that meets certain criteria and is transporting these crops from field to storage or processing facilities to exceed generally applicable statutory weight limitations by not more than 15 percent. Under another exception, to conserve energy during an energy emergency, DOT may authorize the operation of overweight vehicles meeting certain criteria and carrying energy resources or fuel or designated milk commodities to exceed the generally applicable statutory weight limitations by not more than 10 percent of applicable maximum axle weights and by not more than 15 percent of applicable maximum gross vehicle weight. Another exception allows DOT and local highway authorities to declare certain highways under their jurisdiction as frozen and eligible for increased weight limitations, and to establish increased weight limitations on these highways, for the transportation of certain forest products or of abrasives or salt for highway winter maintenance in excess of generally applicable statutory weight limitations. In addition, DOT and local highway authorities may issue specified overweight vehicle permits authorizing operation of vehicles or vehicle combinations that exceed generally applicable statutory weight limitations.

Under current law, any person violating generally applicable statutory weight limitations, lower special posted weight limitations, or higher weight limitations associated with a frozen road declaration or with an agricultural or energy emergency or included in an overweight permit is subject to specified penalties, depending on the severity of the overweight violation. The penalties generally apply not only to the operator but also to the owner of the violating vehicle and to the motor carrier under whose authority the vehicle is operated. If the overweight vehicle or vehicle combination exceeds by more than 1,000 pounds the applicable weight limitation, the total forfeiture is calculated according to a schedule that increases the amount of the forfeiture based on the number of pounds by which the vehicle or vehicle combination exceeds the maximum allowable weight (total excess load). For a first conviction, the overweight violation may result in a forfeiture of not less than \$50 nor more than \$200, plus an escalating amount calculated from the schedule based upon the total excess load. For a second and each subsequent conviction within a 12-month period, the overweight violation may result in a forfeiture of not less than \$100 nor more than \$300, plus an escalating amount calculated from the schedule ranging from two cents per pound when the total excess load is not greater than 2,000 pounds to ten cents per pound when the total excess load exceeds 5,000 pounds. If an overweight permit has been obtained and the vehicle or vehicle combination exceeds the weight stated in the permit, the forfeiture for the overweight violation is computed on the basis of the weight authorized in the permit.

BILL

Under this bill, in the case of a second or subsequent conviction within a 12-month period for violating lower special posted weight limitations or higher weight limitations associated with a frozen road declaration or with an agricultural or energy emergency or included in an overweight permit, all of the following apply:

1. The total excess load for purposes of determining the forfeiture must be computed on the basis of the generally applicable statutory weight limitations, rather than any increased weight limitation, except that, for a violation of any special posted weight limitation, the total excess load must be computed on the basis of the lower special posted weight limitation.

2. In addition to any other penalty, DOT must suspend any overweight permit issued by DOT to the person for six months from the date of the second or subsequent conviction, and any higher weight limitation associated with a frozen road declaration or with an agricultural or energy emergency does not apply to any vehicle or vehicle combination operated by the person for six months from the date of the second or subsequent conviction. The holder of an overweight permit suspended under these circumstances is not entitled to a hearing before the Division of Hearings and Appeals in the Department of Administration to contest the suspension.

→ Current law imposes various surcharges against persons who violate certain laws; these surcharges must be paid in addition to any fine or forfeiture imposed and in addition to any other surcharge imposed. For example, current law imposes a railroad crossing improvement surcharge on persons convicted of violating certain traffic laws relating to railroad crossings, a truck driver education surcharge on persons convicted of violating certain traffic laws while operating a commercial motor vehicle, and a driver improvement surcharge on persons convicted of violating certain laws relating to driving while intoxicated. With limited exceptions, a person convicted of a state or local traffic law violation must also pay other surcharges of general applicability.

insert ANAL-D
This bill creates an overweight vehicle surcharge of \$2,500 that must be imposed on any person convicted of any overweight violation committed while the vehicle or vehicle combination operator held an overweight permit suspended for having two or more specified overweight violations within a 12-month period. The money collected from the surcharge is deposited into the transportation fund.

insert ANAL-E
Because this bill concerns an exception to the vehicle weight limits specified in ch. 348, stats., the Department of Transportation, as required by law, will prepare a report to be printed as an appendix to this bill.

For further information see the **state and local** fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

BILL**SECTION 1**

1 25.40 (1) (in) All moneys forwarded by treasurers from overweight vehicle
2 surcharges imposed under s. 348.215, as provided in ss. 59.25 (3) (f) 2. and 66.0114
3 (1) (bm).

4 **SECTION 2.** 194.095 of the statutes is created to read:

5 **194.095 Shipping documents.** Each common motor carrier of property,
6 contract motor carrier, or private motor carrier shall retain a true, accurate, and
7 legible copy of all shipping documents, including any bill of lading, as defined in s.
8 401.201 (6), and any weight ticket, weight certification, or other document that
9 establishes the gross weight, as defined in s. 348.01 (2) (b), of the vehicle or vehicle
10 combination, that are associated with the transportation of property by the motor
11 carrier. The motor carrier shall maintain these documents for not less than 30 days
12 immediately following the last day that the motor carrier transports the property.
13 The department or its duly authorized agents may inspect as provided under s.
14 194.11 and copy, and a motor carrier shall produce upon demand, any shipping
15 document required to be maintained under this section. No search warrant is
16 required to inspect or copy these documents.

17 **SECTION 3.** 194.17 of the statutes is amended to read:

18 **194.17 Penalties.** Every common motor carrier of property or of passengers,
19 every contract motor carrier and every private motor carrier to which this chapter
20 applies and every person who operates without obtaining a certificate under s.
21 194.23 or license under s. 194.34, except a license for transporting exempt
22 commodities, or without meeting the insurance requirements under s. 194.405 or
23 194.41, or who falsifies any shipping document or knowingly accepts any falsified
24 shipping document required to be maintained under s. 194.095, shall forfeit not less
25 than \$500 nor more than \$5,000. Any person who violates any other provisions of

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1 this chapter including the requirement to obtain a license to transport exempt
2 commodities or the requirement to obtain a permit or who violates orders issued by
3 the division of hearings and appeals or orders or rules issued by the secretary shall
4 forfeit not less than \$50 nor more than \$100. Each violation constitutes a separate
5 offense. In construing and enforcing the provisions of this section, the act, omission
6 or failure of any officer, agent or servant or other person acting for or employed by
7 any common motor carrier of property or of passengers, any contract motor carrier
8 or any private motor carrier, done within the scope of employment is deemed to be
9 the act, omission, or failure of the common motor carrier of property or of passengers,
10 contract motor carrier or private motor carrier.

11 **SECTION 4.** 348.15 (9) of the statutes is created to read:

12 348.15 (9) (a) Notwithstanding sub. (5), any state traffic patrol officer, state
13 motor vehicle inspector, or other agent duly authorized by the department may,
14 within 30 days immediately following the last day that a motor carrier transports
15 property, conduct an inspection authorized under ss. 194.095 and 194.11 of shipping
16 documents required to be maintained by the motor carrier under s. 194.095. From
17 the shipping documents and any other available information, the officer, inspector,
18 or agent may calculate the actual gross weight of a vehicle or vehicle combination
19 operated under authority of the motor carrier and, if this weight exceeds the gross
20 weight limitations specified by this chapter for the vehicle or vehicle combination,
21 the officer, inspector, or agent may, no later than 48 hours after the inspection, issue
22 the motor carrier a citation for an overweight violation.

23 (b) A citation under par. (a) may be served upon the motor carrier anywhere
24 in this state and shall be served by delivering a copy to the motor carrier at the motor
25 carrier's usual place of business or by mailing a copy to the motor carrier at the motor

BILL**SECTION 4**

1 carrier's last-known address as indicated in the records of the department. The
2 venue for prosecution may be any county in which the alleged overweight violation
3 occurred or any county in which the motor carrier maintains any usual place of
4 business.

5 (c) In all cases where an overweight citation is issued under this subsection, the
6 calculations of the officer, inspector, or agent under par. (a) to determine the
7 overweight violation shall be supplied to the motor carrier, and these calculations,
8 along with a copy of the shipping documents upon which the calculations are based,
9 shall also be supplied to the court in case the matter goes to trial. These calculations
10 and the shipping documents shall be admissible as relevant evidence of the gross
11 weight of the vehicle or vehicle combination.

12 **SECTION 5.** 348.17 (3) of the statutes is amended to read:

13 348.17 (3) During an energy emergency, after consultation with the
14 department of administration, the department may waive the divisible load
15 limitation of s. 348.25 (4) and authorize for a period not to exceed 30 days the
16 operation of overweight vehicles having a registered gross weight of 50,000 pounds
17 or more and carrying energy resources or fuel or milk commodities designated by the
18 governor or a designee, regardless of the highways involved, to conserve energy.
19 Such authorization may only allow weights not more than 10% greater than the gross
20 axle and axle combination weight limitations, and not more than 15% greater than
21 the gross vehicle weight limitations under ss. 348.15 and 348.16. Nothing in this
22 subsection shall be construed to permit the department to waive the requirements
23 of ss. 348.05 to 348.07. This subsection does not apply to vehicles on highways
24 designated as parts of the national system of interstate and defense highways, except
25 for that portion of USH 51 between Wausau and STH 78 and that portion of STH 78

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1 ~~between USH 51 and the I 90/94 interchange near Portage upon their federal~~
2 ~~designation as I 39~~ between USH 51 and I 90/94, or to any vehicle or vehicle
3 combination operated by a person holding a suspended permit as provided in s.
4 348.21 (3m).

5 **SECTION 6.** 348.17 (4) (a) of the statutes is amended to read:

6 348.17 (4) (a) If the secretary of agriculture, trade and consumer protection
7 determines that an agricultural emergency exists with respect to the harvest of a
8 particular crop, the secretary of transportation may authorize the movement of
9 vehicles or combinations of vehicles that exceed the weight limitations under s.
10 348.15 or 348.16 by not more than 15% of the applicable weight limitations. The
11 authorization is limited to vehicles or combinations of vehicles that are transporting
12 crops from field to storage or processing facilities and that have a registered gross
13 weight of 50,000 pounds or more or are described in s. 340.01 (24) (b). This paragraph
14 does not apply to vehicles or combinations of vehicles on highways designated as
15 parts of the national system of interstate and defense highways, except for that
16 portion of USH 51 between Wausau and STH 78 and that portion of STH 78 between
17 USH 51 and the I 90/94 interchange near Portage upon their federal designation as
18 I 39, and I 39 between USH 51 and I 90/94, to any vehicle or vehicle combination
19 operated by a person holding a suspended permit as provided in s. 348.21 (3m), or
20 to implements of husbandry.

21 **SECTION 7.** 348.175 of the statutes is amended to read:

22 **348.175 Seasonal operation of vehicles hauling peeled or unpeeled**
23 **forest products cut crosswise or abrasives or salt for highway winter**
24 **maintenance.** The transportation of peeled or unpeeled forest products cut
25 crosswise or of abrasives or salt for highway winter maintenance in excess of gross

BILL**SECTION 7**

weight limitations under s. 348.15 shall be permitted during the winter months when the highways are so frozen that no damage may result thereto by reason of such transportation. If at any time any person is so transporting such products or abrasives or salt upon a class "A" highway in such frozen condition then that person may likewise use a class "B" highway without other limitation, except that chains and other traction devices are prohibited on class "A" highways but such chains and devices may be used in cases of necessity. The officers or agencies in charge of maintenance of highways, upon determination of such frozen condition and freedom of damage to such highways by transportation shall declare particular highways, or highways within areas of the state as eligible for increased weight limitations. Such declaration shall include the maximum weight on each axle, combination of axles and the gross weight allowed. Any person transporting any such product over any highway of this state under this section is liable to the maintaining authority for any damage caused to such highway. This section does not apply to the national system of interstate and defense highways, except for that portion of USH 51 between Wausau and STH 78 and that portion of STH 78 between USH 51 and the I 90/94 interchange near Portage upon their federal designation as I 39 between USH 51 and I 90/94 or to any vehicle or vehicle combination operated by a person holding a suspended permit as provided in s. 348.21 (3m).

SECTION 8. 348.21 (3) (b) 2. of the statutes is amended to read:

348.21 (3) (b) 2. For the 2nd and each subsequent conviction within a 12-month period, a forfeiture of not less than \$100 nor more than \$300, plus an amount equal to: 2 cents for each pound of total excess load when the total excess is not over 2,000 pounds; 4 cents for each pound of total excess load if the excess is over 2,000 pounds and not over 3,000 pounds; 6 cents for each pound of total excess load if the excess

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1 is over 3,000 and not over 4,000 pounds; 8 cents for each pound of total excess load
2 if the excess is over 4,000 pounds and not over 5,000 pounds; 10 cents for each pound
3 of total excess load if the excess is over 5,000 pounds. Notwithstanding s. 348.25 (2)
4 (b), in the case of a 2nd or subsequent conviction within a 12-month period of
5 violating any weight limitation posted as provided in s. 348.17 (1) or in a declaration
6 issued under s. 348.175 or authorized under s. 348.17 (3) or (4) or in an overweight
7 permit issued under s. 348.26 or 348.27, the total excess load for purposes of
8 determining the forfeiture under this subdivision shall be computed on the basis of
9 the maximum weight limitations specified in ss. 348.15 and 348.16, without
10 consideration of any weight limitation exception provided in s. 348.16 (2), rather
11 than any increased limitations in a declaration issued under s. 348.175 or authorized
12 under s. 348.17 (3) or (4) or in an overweight permit issued under s. 348.26 or 348.27
13 except that, for a violation of any weight limitation posted as provided in s. 348.17
14 (1), including a violation for exceeding any weight authorized in a permit specified
15 in s. 348.17 (1) or any modified weight limitation established under s. 349.16 (3), the
16 total excess load shall be computed on the basis of the weight limitation posted as
17 provided in s. 348.17 (1).

18 **SECTION 9.** 348.21 (3m) of the statutes is created to read:

19 348.21 (3m) In addition to any other penalty provided under this section, in the
20 case of a person's 2nd or subsequent conviction within a 12-month period of violating
21 any weight limitation posted as provided in s. 348.17 (1) or in a declaration issued
22 under s. 348.175 or authorized under s. 348.17 (3) or (4) or in an overweight permit
23 issued under s. 348.26 or 348.27, the department shall suspend any permit issued
24 by the department to the person under s. 348.26 or 348.27 for 6 months from the date
25 of the 2nd or subsequent conviction, and any increased weight limitation in a

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SECTION 9

1 declaration issued under s. 348.175 or authorized under s. 348.17 (3) or (4) or
2 modified limitation or exemption under s. 349.16 (3) shall not apply to any vehicle
3 or vehicle combination operated by the person for 6 months from the date of the 2nd
4 or subsequent conviction.

5 **SECTION 10.** 348.215 of the statutes is created to read: (P)(b)

6 **348.215 Overweight vehicle surcharge.** (1) If a court imposes a forfeiture
7 for ~~any~~ [↓] ~~overweight~~ violation under this subchapter or a local ordinance enacted
8 under s. 349.15 (3) committed while the operator of the vehicle or vehicle combination
9 held a suspended permit as provided in s. 348.21 (3m), the court shall also impose
10 under ch. 814 an overweight vehicle surcharge of ~~\$2,500~~ [↑] ~~if~~ [↑] ~~multiple offenses are~~ [↑] ~~involved,~~ [↑] the court shall impose an overweight vehicle surcharge upon each
11 forfeiture imposed. (P)(c)

13 (2) (a) Except as provided in par. (b), the clerk of the circuit court shall collect
14 and transmit the amount of the overweight vehicle surcharge under sub. (1) to the
15 county treasurer as provided in s. 59.40 (2) (m). The county treasurer shall then pay
16 this amount to the secretary of administration as provided in s. 59.25 (3) (f) 2.

17 (b) If a forfeiture is imposed by a municipal court, the court shall transmit the
18 amount of the overweight vehicle surcharge under sub. (1) to the treasurer of the city
19 or village as provided in s. 66.0114 (1) (bm) and the treasurer shall then pay this
20 amount to the secretary of administration as provided in s. 66.0114 (1) (bm).

21 (c) The secretary of administration shall deposit all amounts received under
22 this subsection into the transportation fund.

23 **SECTION 11.** 348.25 (6m) of the statutes is created to read:

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1 348.25 (6m) When the department issues a permit under s. 348.26 or 348.27,
2 the department may require the permittee to provide to the department all shipping
3 documents associated with the transportation of property under the permit.

4 **SECTION 12.** 348.25 (7) of the statutes is renumbered 348.25 (7) (a) and
5 amended to read:

6 348.25 (7) (a) The Except as provided in par. (b), the officer or agency which
7 issued a permit may, for good cause, suspend or revoke such permit or may decline
8 to issue additional permits or may decline to authorize the use of a telephone call-in
9 procedure for any applicant after having given the permittee or applicant reasonable
10 opportunity for a hearing.

11 **SECTION 13.** 348.25 (7) (b) of the statutes is created to read:

12 348.25 (7) (b) The department shall suspend any permit issued by the
13 department as provided under s. 348.21 (3m), and the permittee shall not be entitled
14 to a refund of any fee paid for the permit.

15 **SECTION 14.** 348.25 (9) of the statutes is amended to read:

16 348.25 (9) If a permit under s. 348.26 or 348.27 is denied, suspended or revoked,
17 the permit applicant or holder may petition the division of hearings and appeals for
18 a hearing on the matter within 30 days after the denial, suspension or revocation.
19 This subsection does not apply if the permit is suspended as provided under sub. (7)
20 (b).

21 **SECTION 15.** 348.27 (9m) (a) 1. of the statutes is amended to read:

22 348.27 (9m) (a) 1. ~~Raw forest products or of fruits~~ Fruits or vegetables from
23 field to storage or processing facilities in vehicles or vehicle combinations that exceed
24 the maximum gross weight limitations under s. 348.15 (3) (c) by not more than 10,000
25 pounds. A permit under this subdivision is not valid on highways designated as part

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SECTION 15

1 of the national system of interstate and defense highways, except on I 39 between
2 STH 29 south of Wausau and the I 90/94 interchange near Portage in Marathon,
3 Portage, Waushara, Marquette and Columbia counties.

4 **SECTION 16.** 348.27 (9m) (a) 4. of the statutes is created to read:

5 348.27 (9m) (a) 4. Raw forest products in vehicle combinations that exceed the
6 maximum gross weight limitations under s. 348.15 (3) (c) by not more than 18,000
7 pounds if the vehicle combination has 6 or more axles at least 3 of which are on a
8 trailer or semitrailer, the gross weight imposed on the highway by the wheels of any
9 one axle of the vehicle combination does not exceed 18,000 pounds, and there is a
10 distance of at least 13 feet between the foremost steering axle and the foremost axle
11 of the drive axle on the power unit, at least 25 feet between the rearmost axle of the
12 drive axle on the power unit and the foremost axle on the trailer or semitrailer, and
13 at least 50 inches between any two consecutive axles of each tandem axle on the
14 trailer or semitrailer. A permit under this subdivision is not valid on any interstate
15 highway designated under s. 84.29 (2), any highway or bridge with a posted weight
16 limitation that is less than the vehicle combination's gross weight, and any part of
17 the state trunk highway system that the department has designated by rule as a
18 route on which a permit issued under this subsection is not valid.

19 **SECTION 17.** 348.27 (9m) (b) of the statutes is amended to read:

20 348.27 (9m) (b) A permit issued under par. (a) 1. to 3. does not authorize the
21 operation of any vehicle or vehicle combination at a maximum gross weight in excess
22 of 90,000 pounds. A permit issued under par. (a) 4. does not authorize the operation
23 of any vehicle combination at a maximum gross weight in excess of 98,000 pounds.

24 **SECTION 18.** 349.16 (3) of the statutes is amended to read:

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1 349.16 (3) The Except as provided in s. 348.21 (3m), the authority in charge of
2 the maintenance of the highway may exempt vehicles carrying certain commodities
3 specified by the authority or which are used to perform certain services specified by
4 the authority from the special weight limitations which are imposed under sub. (1)
5 (a), or may set different weight limitations than those imposed under sub. (1) (a) for
6 vehicles carrying those commodities or which are used to perform those services, if
7 such exemption or limitation is reasonable and necessary to promote the public
8 health, safety and welfare. The authority in charge of the maintenance of the
9 highway shall exempt from the special or seasonal weight limitations imposed under
10 sub. (1) (a) a vehicle that is used to transport material pumped from a septic or
11 holding tank if, because of health concerns, material needs to be removed from a
12 septic or holding tank within 24 hours after the vehicle owner or operator is notified
13 and if the vehicle is operated for the purpose of emptying the septic or holding tank
14 and disposing of its contents and is operated on a route that minimizes travel on
15 highways subject to weight limitations imposed under sub. (1) (a). Within 72 hours
16 after operating a vehicle that transported material pumped from a septic or holding
17 tank and that exceeded special or seasonal weight limitations as authorized by this
18 subsection, the owner or operator of the vehicle shall notify the authority in charge
19 of maintenance of the highways over which the vehicle was operated.

20 ~~SECTION 19.~~ 814.75 (17m) of the statutes is created to read:

21 814.75 (17m) The overweight vehicle surcharge under s. 348.215.

22 ~~SECTION 20.~~ 814.79 (6m) of the statutes is created to read:

23 814.79 (6m) The overweight vehicle surcharge under s. 348.215.

24 ~~SECTION 21.~~ 814.81 (7m) of the statutes is created to read:

25 814.81 (7m) The overweight vehicle surcharge under s. 348.215.

BILL**SECTION 22****SECTION 22. Nonstatutory provisions.**

(1) Notwithstanding section 348.27 (9m) (a) 1. of the statutes, as affected by this act, a permit issued under section 348.27 (9m) (a) 1., 2003 stats., is valid under the terms of the permit for the duration of the period specified in the permit.

(2) Notwithstanding section 348.15 (9) of the statutes, as created by this act, during the period beginning on the effective date of this subsection and ending on the last day of the 3rd month beginning after the effective date of this subsection, if a state traffic patrol officer, state motor vehicle inspector, or other agent duly authorized by the department of transportation has probable cause to believe that a person has committed an overweight violation under chapter 348 of the statutes, as affected by this act, and probable cause arises from any calculation from shipping documents by the officer, inspector, or agent authorized under section 348.15 (9) (a) of the statutes, as created by this act, the officer, inspector, or agent shall issue a written warning, but not a citation, for the overweight violation.

SECTION 23. Initial applicability.

(1) This act first applies to motor vehicles operated on, and violations committed on, the effective date of this subsection, but does not preclude the counting of other violations as prior violations for purposes of sentencing a person.

SECTION 24. Effective date.

(1) This act takes effect on the first day of the 4th month beginning after publication.

(END)

D-Note